

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

ARBITRATION PETITION (L) NO.549 OF 2006

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Punjab National Bank ...Petitioner

v/s.

General Manager

Western Railway & Anr. ...Respondents

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Mr.Gaurav Joshi i/b M/s.Negandhi Shah & Himayatullah
for the Petitioner.

Mr.Suresh Kumar for the Respondents.

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CORAM: D.K.DESHMUKH, J.

DATED: 3RD OCTOBER, 2006

P.C.:

Heard the learned Counsel for both sides. There is

no dispute that there is an arbitration clause between the parties. It also appears that both the sides have claims against each other. Admitted position is that the machines which are subject matter of prayer clause (a) of this application are owned by the Petitioner. There is also no dispute that presently those machines are not being used and that the Petitioner is desirous of removing them.

2. The Only objection that was raised on behalf of the Respondent for removal of the machines is that the Petitioner is, according to Respondent, in arrears of licence fees.

3. In my opinion, the Respondent will not be entitled to prevent the Petitioner from removing the machines only because huge amount is due to the Respondent as licence fees, because the Petitioner is a nationalised bank and in case the award is passed in favour of the Respondent for recovery of licence fees from the Petitioner, the Respondent would be able to recover that amount from the Petitioner being a nationalised bank.

4. The learned Counsel appearing for the Respondent

also stated that the General Manager, Western Railways is willing to constitute an arbitral forum as per the arbitration clause within a period of eight weeks from today.

5. In this view of the matter, therefore, in my opinion, following order would serve the interest of justice.

O R D E R

(i) Petition is granted in terms of prayer clause (a).

(ii) The General Manager, Western Railways shall take immediate steps and complete the process of constitution of the arbitral forum as per the arbitration clause between the parties within a period of eight weeks from today.

(iii) The claims of both sides against each other may be referred by both sides to the learned arbitrator to be decided in accordance with law.

(iv) Petition disposed of.

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